

Appeal Decision

Site visit made on 16 May 2019

by G Jenkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st July 2019

Appeal Ref: APP/L2440/D/19/3225332

50 Briar Meads, Oadby, LE2 5WD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Afrim Morina against the decision of the Borough of Oadby and Wigston Council.
 - The application Ref 18/00539/FUL, dated 7 December 2018, was refused by notice dated 29 January 2019.
 - The development proposed is single storey rear extension and two-storey side extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues relating to this appeal are the effect of the proposals upon protected species, the effect of the proposal upon the character and appearance of the area and the effect of the proposal upon the living conditions of neighbouring occupants at 48 Briar Mead by way of sunlight, daylight and outlook.

Preliminary Matter

3. At the time the appeal was submitted the Emerging Submission Draft of the Oadby and Wigston Local Plan (2018) was at an advanced stage. I have therefore given this considerable weight in the determination of this appeal.

Reasons

Protected species

4. Bats are a protected species under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Regulation 3 of the Habitat Regulations 1994. Their presence is a material consideration in a proposal where there is a reasonable likelihood of a protected species being present and affected.
5. The appellant undertook a survey in November 2018 however this was not within the required timeframes. I accept that this demonstrated no evidence of bats however bat surveys must be undertaken between May and August. Circular 06/2005 advises that surveys should only be required by condition in exceptional circumstances. The appellant has not demonstrated exceptional circumstances to convince me to attach such a condition to this decision.

6. There is a possibility that there are bats roosting in the roof of the existing property and they would be disturbed as a result of any building work. I am not satisfied on the basis of the evidence that the proposal could be implemented without risk to the protected species.

Character and appearance of the area

7. The appeal site is a two storey three bedroomed semi-detached house and garden. The site is close to the junction with Tilton Drive where No 46 and 48 Briar Meads are angled in their siting in relation to No 50. The surrounding area is predominantly residential and is surrounded by similar style residential dwellings.
8. The proposal is for a single storey rear extension and two-storey side extension. The front elevation of the main house would remain unchanged. The front garden would be reconfigured to accommodate three off streetcar parking spaces. The existing single storey extension at ground floor level would be removed and replaced with a two storey pitch roofed extension would be sited on the party boundary. This would be finished in brick to match the host dwelling. Across the width of the rear main wall there would be a single storey lean to extension with a depth of 3.4 metres.
9. The proposed extension would be set back at first floor level and the roof pitch would be lower than that of the host property. I therefore find that the proposed two-storey side extension would be subordinate to the original dwelling. The spacing between No 50 and No 48 Briar Mead is considerably larger than the uniform spacing between the other properties on the street, given the angle that No 48 is sited at because of the curve in the road. I do not therefore find that the proposal would appear as an overdevelopment of the site and nor do I find that the visual bulk of the development would be too large.
10. The proposal has been designed sensitively with materials that would match that of the host dwelling and the surrounding character and appearance of the area.
11. I note that there have been a number of side extensions along Briar Meads, however, I am unaware of the circumstances that led to the development of these and individual planning applications must be determined on their own merit. I have therefore afforded this limited weight in my decision-making.
12. I find that the proposed development would not result in harm to the character and appearance of the area and would therefore comply with Policies 14 and 15 of the Oadby and Wigston Core Strategy Development Plan Document (2010), the Oadby and Wigston Local Plan (1999) Housing Proposal 17 and also Policy 11 of the Emerging Submission Draft of the Oadby and Wigston Local Plan (2018), which amongst other things seek to ensure new residential development respects local character.

Living conditions of neighbouring occupants by way of daylight/sunlight and outlook.

13. The proposed development would abut the boundary with No 48 Briar Meads, however, the building line at first floor level would protrude only marginally beyond the rear elevation of No 48 at first floor level and given the angle of the

properties, I do not find that this would be harmful to the living conditions of the occupiers of No 48 in terms of loss of light or outlook.

14. At ground floor level the property would be extended to the rear in a lean to style. This would protrude no further than the existing rear extension of No 52 Briar Meads in terms of height and width. Whilst this is likely to have some impact on the light and outlook from the ground floor window of No 48 nearest the boundary I do not consider that this would be to a level that would have a harmfully detrimental impact on the living conditions of the occupiers of the property.

15. I find that the proposal would have a limited impact on the living conditions of the occupiers at No 48 Friar Meads. However, this would not be of such a level that it would result in harm to the living conditions of those occupants such to justify dismissing the appeal on those grounds. Overall the proposal would comply with Policies 14 and 15 of the Oadby and Wigston Core Strategy, Housing Proposal 17 of the Oadby and Wigston Local Plan and also Policy 11 of the Emerging Submission Draft of the Oadby and Wigston Local Plan (2018), which amongst other things seek to ensure good design in new residential development.

Conclusions

16. I have found that the proposal would comply with the development plan in respect of its effect on the character and appearance of the area and living conditions of neighbouring occupiers. However, I am not satisfied that the proposal could be implemented without unauthorised disturbance of a protected species. Accordingly, for the above reasons above I conclude that the appeal should be dismissed.

Gemma Jenkinson

INSPECTOR